

UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA

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JACOB ANGELO MASSEY,

Petitioner,

v.

THE ATTORNEY GENERAL OF THE  
STATE OF NEVADA, *et al.*,

Respondents.

Case No. 3:24-cv-00385-MMD-CSD

ORDER

This action is a petition for a writ of habeas corpus under 28 U.S.C. § 2254 by Jacob Angelo Massey, an individual incarcerated at the Northern Nevada Correctional Center. Massey, acting *pro se*, has submitted for filing an application to proceed *in forma pauperis* (ECF No. 1), a petition for writ of habeas corpus (ECF No. 1-1), a motion for appointment of counsel (ECF No. 1-2), and a motion for discovery (ECF No. 1-3).

Massey's application to proceed *in forma pauperis* (ECF No. 1) is incomplete in that it does not include the required financial certificate signed by a prison officer. See LSR 1-2. The Court will deny Massey's application for that reason, without prejudice, but will defer the matter of payment of the filing fee or the filing of a new *in forma pauperis* application until after appointed counsel appears for Massey.

The Court has examined Massey's petition as mandated by Rule 4 of the Rules Governing Section 2254 Cases in the United States District Courts and determines that it merits service upon the Respondents. The Court will order the petition served upon the Respondents and will direct the Respondents to appear, but will not require any further action on the part of Respondents at this time.

State prisoners applying for habeas corpus relief are not entitled to appointed counsel unless the circumstances indicate that appointed counsel is necessary to prevent due process violations. See *Chaney v. Lewis*, 801 F.2d 1191, 1196 (9th Cir. 1986) (citing

1 *Kreiling v. Field*, 431 F.2d 638, 640 (9th Cir. 1970) (per curiam)). The court may, however,  
2 appoint counsel at any stage of the proceedings if the interests of justice so require. See  
3 18 U.S.C. § 3006A; see also Rule 8(c), Rules Governing § 2254 Cases; *Chaney*, 801  
4 F.2d at 1196. The Court determines that the interests of justice call for appointment of  
5 counsel in this case. The Court will grant Massey's motion for appointment of counsel  
6 and will appoint the Federal Public Defender for the District of Nevada ("FPD") to  
7 represent Massey.

8 The Court will deny Massey's motion for discovery, without prejudice, in that such  
9 a motion is premature in this case at this time. After counsel appears for Massey, the  
10 Court will issue a scheduling order, which will include provisions scheduling the filing of a  
11 motion for discovery and other motions.

12 It is therefore ordered that Petitioner's Application to Proceed *in Forma Pauperis*  
13 (ECF No. 1) is denied without prejudice.

14 It is further ordered that the Clerk of the Court is directed to separately file  
15 Petitioner's Petition for Writ of Habeas Corpus (ECF No. 1-1), Motion for Appointment of  
16 Counsel (ECF No. 1-2), and Motion for Discovery (ECF No. 1-3).

17 It is further ordered that Petitioner's Motion for Appointment of Counsel (ECF No.  
18 1-2) is granted. The Federal Public Defender for the District of Nevada ("FPD") is  
19 appointed to represent the Petitioner. If the FPD is unable to represent the Petitioner,  
20 because of a conflict of interest or other reason, alternate counsel will be appointed.  
21 Counsel will represent Petitioner in all federal court proceedings relating to this matter,  
22 unless allowed to withdraw.

23 It is further ordered that the Clerk of the Court is directed to electronically serve  
24 upon the FPD a copy of this order, together with a copy of the Petition for Writ of Habeas  
25 Corpus (ECF No. 1-1).


26 It is further ordered that the FPD will have 30 days from the date of entry of this  
27 order to file a notice of appearance, or to indicate to the Court its inability to represent the  
28 Petitioner in this case.

1 It is further ordered that the Clerk of the Court is directed to add Aaron Ford,  
2 Attorney General of the State of Nevada, as counsel for Respondents and to provide  
3 Respondents an electronic copy of all items previously filed in this case by regenerating  
4 the Notice of Electronic Filing to the office of the Attorney General only.

5 It is further ordered that Respondents will have 30 days from the date of entry of  
6 this order to appear in this action. Respondents will not be required to respond to the  
7 habeas petition at this time.

8 It is further ordered that Petitioner's Motion for Discovery (ECF No. 1-3) is denied,  
9 without prejudice.

10 DATED THIS 30<sup>th</sup> day of August 2024.

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14 MIRANDA M. DU  
15 CHIEF UNITED STATES DISTRICT JUDGE  
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